IN THE HIGH COURT OF JUDICATURE AT BOMBAY

CRIMINAL APPELLATE JURISDICTION

CRIMINAL APPLICATION NO.1974 OF 2005

Shri.Novel Balu Salwe ...Applicant

Versus

State of Maharashtra ...Respondent

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Mr.Jayesh Kocheta with Mr.P.L.Bhujbal for Applicant.

Mr.A.S.Gadkari, A.P.P. for Respondent.

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CORAM: A.M.KHANWILKAR, J.

MARCH 24, 2005.

P.C.

1. Heard Counsel for the parties.

2. The prosecution case is that the Applicant demanded amount from the Complainant with promise that his problem pending with the Mahatma Phule Police Station, Kalyan, will be resolved, as he was acquainted with the Officer of the said Police Station. It is the prosecution case that Applicant accepted part of the amount with assurance that the work will be done and the remaining amount be paid

only after the work was executed.

3. The compliant has been lodged by one Mr.Kalangra John that the amount has been paid by him to the Applicant and the Applicant demanded further amount in the presence of one Mr.Shetty, whose statement has also been recorded.

4. The grievance of the Applicant is that the Applicant has been falsely framed. It is his case that in fact, the Applicant had registered offence regarding the theft at his residence, sometime in the year 2000, but the local Police i.e. Mahatma Phule Police Station was not taking any effective measures against the named accused, which necessitated the Applicant to take the matter before the higher Authorities, including the Minister, Home Department. It is only thereafter, the accused was arrested, almost after gap of four years on 21st February 2005 by the local police. The complaint in question is registered on 14th March 2005.

5. Being disturbed by the course adopted by

the Applicant in making representation about the inaction of the local police, it is the case of the Applicant that he has been framed by recording statement of an obliging person, namely, Shri.Kalangra John, who admittedly is a retired person, about 75 years of age, without any job. Statement of Mr.Shetty to support the case of the complainant has also been recorded. However, this Shetty, it is stated, is engaged in business of selling shoes in open place outside the house of the Complainant. It is, therefore, asserted that even Mr.Shetty has obliged the Police by giving statement that he had seen the Applicant giving the amount to the Complainant.

6. Whether the case made out by the Applicant is true, is a matter which will be established at the trial. In my opinion, the grievance of the Applicant seems to be probable. I am recording this view only as a prima facie view to consider the relief claimed before this Court. In other words, it is obvious that the Applicant has been framed because he had exposed the local Police, up to the highest Authority, namely, Minister, Home

Department, which impelled the local Police to cause arrest of the named accused in the complaint registered by the Applicant as back as in the year 2000.

7. In this peculiar situation, the Applicant deserves to be granted the relief prayed in this Application. Accordingly, this Application succeeds on the following terms :

(a) The Applicant be released on bail in the event of his arrest in connection with C.R.No.I-127 of 2005 registered with Mahatma Phule Police Station, Kalyan, on executing personal bond in the sum of Rs.10,000/- (Rupees Ten Thousand) with one local surety in the like amount.

(b) Applicant shall abide by the conditions provided under Section 438(2) of the Criminal Procedure Code, as applicable to the State of Maharashtra.

(c) This order will enure till the filing of the charge-sheet.

8. Application disposed of on the above terms.

A.M.KHANWILKAR, J.